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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/734,135   | 12/15/2003  | Mark L. Baum         | 3105-101            | 9216             |
| 28694  | 7590        | 05/03/2006           | EXAMINER            |                  |
| NOVAK DRUCE & QUIGG, LLP<br>1300 EYE STREET NW<br>400 EAST TOWER<br>WASHINGTON, DC 20005 |             |                      | PAPE, JOSEPH        |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3612                |                  |

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/734,135

Applicant(s)

BAUM, MARK L.

Examiner

Joseph D. Pape

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) 3, 17 and 21-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-15 and 37-56 is/are rejected.
- 7) ☒ Claim(s) 16, 18-20 and 57-61 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/20/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 3, 17 and 21-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/27/06.

Note that the arguments with regards to claims 37-47 are persuasive and these claims have been considered. As such the remainder of the election would be without traverse in that no further arguments were presented.

Claims 3 and 17 have also been withdrawn as not being readable on the elected species of Figure 2.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "means for connection" in claim 49 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

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replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The disclosure is objected to because of the following informalities: On page 10, the second to last line, "a" should be deleted and "M" should be changed to --30--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 4, 6-7, 10-15, 37-38 and 48-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Nazginov et al.

Nazginov et al. disclose the claimed invention including driver area 15, furniture display area 16, and mechanism (comprising selectively transparent panels 22, 24, 26) for selective presentation of furniture items to a customer. The furniture includes sofas (column 3 lines 36+) which are useable for sleeping devices. Nazginov et al. further includes a supply area 18. The mechanism includes a motorized conveyor 48 for selectively positioning a transparent panel for viewing the furniture items in the display area 16. The mechanism includes control box 52 and operator panel associated therewith (columns 3-4).

The method of use claims 48-53 are either explicitly stated as being the method employed by Nazginov et al. or they are inherent steps associated therewith.

Re claims 37 and 38, since the invention of Nazginov et al. is directed to potential customers and has a storage area for sales of items, the steps of collecting information

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as in asking what the customer would like and collecting payment are considered to be inherent steps of selling items to a customer.

Re claim 6, communication means for a truck operator to communicate with a dispatch office is considered to be an inherent feature.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 39-41 and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nazginov et al.

Nazginov et al. disclose the claimed invention except for the exact manner of collecting payment from a customer.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to collect payment for the items of Nazginov et al. including the steps of collecting payment including cash, credit card, and electronic payment which are notoriously well known methods of collecting payment and involve no new or unexpected results when used with the apparatus of Nazginov et al.

Re claims 44-46, it would also have been obvious to the method contemplated by Nazginov et al. with the steps of requesting the vehicle to come to a particular location by telephone or computer as an obvious method of utilizing the mobile capabilities of Nazginov et al.

8. Claims 8-9 and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nazginov et al.

Nazginov et al. discloses that the mobile showroom is for furniture including sofas and the like.

Nazginov et al. do not disclose that the specific comfort furniture is a bed with a mattress.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a bed and including a mattress as the specific type of comfort furniture being offered for sale as an obvious choice of a well known set of comfort furniture which involves no new or unexpected results.

9. Claims 5, 47 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nazginov et al.

Nazginov et al. discloses the claimed invention except for the sales vehicle being on a trailer instead of being incorporated in a truck and the sales of carpets.

Vehling discloses a mobile sales device mounted on a trailer and presenting carpets for sale.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the mobile sales vehicle of Nazginov et al. on a trailer as taught by Vehling in order to be able to park the trailer in one place without necessarily keeping the pulling vehicle from being used otherwise.

Re claim 54, it would have been obvious to one having ordinary skill in the art at the time the invention was made use the device of Nazginov et al. to sell carpets as taught by Vehling for varied sales capability.

10. Claims 55 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nazginov et al.

Nazginov et al. discloses the claimed invention except for the specific type of merchandise being presented for sale.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Nazginov et al. with any known sales item including exercise equipment and electronics as a notoriously well known method of use of a sales space.

***Allowable Subject Matter***

11. Claims 16, 18-20, and 57-61 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

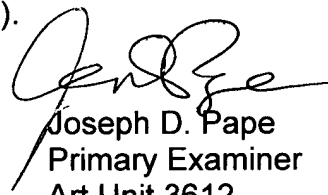



**Conclusion**

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Pape whose telephone number is (571)272-6664. The examiner can normally be reached on Tuesday-Friday 6:30 AM-3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571)-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Joseph D. Pape  
Primary Examiner  
Art Unit 3612  


Jdp

4/28/06